

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SHENIA DANCY-STEWART,)
Plaintiff,)
)
v.) C.A. No. 05-11803-MLW
)
THOMAS TAYLOR, Jr., ET AL.,)
Defendants.)

ORDER

WOLF, D.J.

May 20, 2008

In response to a submission by plaintiff, on May 14, 2008, the court ordered all claims against the City of Boston dismissed unless the plaintiff moved, by May 22, 2008, to reinstate any claims against the City except those in Count III.

On May 19, 2008, the plaintiff requested that the court "reinstate all of the claims it dismissed except Count III."

Therefore, the court is reinstating Count V of the Third Amended Complaint, titled "Count V: Survival Action" against the City. The defendants shall address this claim in their motions for summary judgment, which are now due May 30, 2008.

The court notes that in her motion for reinstatement, the plaintiff references "negligence" as a possible basis for relief against the City. Prior Complaints, including the Second Amended Complaint filed September 5, 2006, contained a "Negligence" claim against the City (Second Amended Complaint, Count IX) and a "Gross Negligence" claim against the individual defendant, Thomas Taylor. However, the plaintiffs omitted these claims from their Third Amended Complaint, which will be the subject of the forthcoming

motions for summary judgment. Therefore, in their motions for summary judgment, the defendants need only address the claims included in the Third Amended Complaint, but need not address Count III of that Complaint, which has now been dismissed or negligence as a basis for potential liability.

/s/ Mark L. Wolf
UNITED STATES DISTRICT JUDGE